

JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Monica L. Plaxton (aka Monika L. Garin)

(b) County of Residence of First Listed Plaintiff Clark  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Rory J. Vohwinkel, Vohwinkel & Associates, Las Vegas, NV 89147  
702-838-3874

**DEFENDANTS**

VERIZON WIRELESS, NATIONAL ENTERPRISE SYSTEMS,  
PROGRESSIVE MANAGEMENT SYSTEMS, and THE CBE

County of Residence of First Listed Defendant Clark  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER/STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 USC 1692, 15 USC 1681

Brief description of cause:

Violation of Fair Debt Collection Practices Act and Fair Credit Reporting Act

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/22/2009

SIGNATURE OF ATTORNEY OF RECORD

/s/ Rory J. Vohwinkel

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

1 Rory J. Vohwinkel, Esq.  
2 **VOHWINKEL & ASSOCIATES**  
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5 Las Vegas, NV 89147  
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8 Rory@rovolaw.com  
9 *Attorney for Plaintiff Monika L. Plaxton*  
10 *(aka Monica L. Garin)*

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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MONICA L. PLAXTON (aka MONICA L.  
GARIN), an individual,

Plaintiff,

vs.

VERIZON WIRELESS, a domestic  
corporation, NATIONAL ENTERPRISE  
SYSTEMS, a domestic corporation,  
PROGRESSIVE MANAGEMENT SYSTEMS,  
a domestic corporation, and THE CBE  
GROUP, a domestic corporation, DOES I-V,  
inclusive; and ROE ENTITIES VI-X, inclusive,

Defendants.

CASE NO.:

**COMPLAINT**

DEMAND FOR JURY TRIAL

**JURISDICTION**

1. The jurisdiction of this Court attains pursuant to the FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332, and the doctrine of supplemental jurisdiction. Venue lies in the Southern Division of the Judicial District of Nevada as Plaintiff's claims arose from the acts of the Defendants perpetrated therein.

**PRELIMINARY STATEMENT**

2. This action is instituted in accordance with and to remedy Defendant's violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter

1 “FDCPA”), the Fair Credit Reporting Act, 15, U.S.C. § 1681 et seq. (hereinafter “FCRA”), and of  
2 related state law obligations brought as supplemental claims hereto.

3 3. In 2008, Defendants Verizon Wireless, National Enterprise Systems and  
4 Progressive Management Systems initiated a campaign of abusive, unfair, unreasonable, and  
5 unlawful debt collection activity directed against Plaintiff.

6 4. Beginning in 2008, Defendant Verizon began unlawfully furnishing information  
7 relating to Plaintiff to one or more of the consumer credit reporting agencies despite knowledge  
8 and/or reasonable cause to believe that the information was inaccurate

9 5. In 2009, despite knowledge of Plaintiff’s dispute of the debt alleged owed by  
10 Plaintiff, Defendant Verizon referred Plaintiff’s matter to a third collection company, Defendant  
11 The CBE Group, who initiated unlawful debt collection activity directed against the Plaintiff for a  
12 third time.

13 6. As a result of these and other violations of law, Plaintiff seeks hereby to recover  
14 actual, exemplary, punitive and statutory damages together with reasonable attorney’s fees and  
15 costs and repairing her damaged Credit.

16 PARTIES

17 7. Plaintiff, Monica L. Plaxton (aka Monica L. Garin), is a natural person who resides  
18 in Las Vegas, Nevada, and has been a resident since February 2007, and is a “consumer” as  
19 defined by 15 U.S.C. Section 1692a (3) and allegedly owes a “debt” as defined by 15 U.S.C.  
20 Section 1692a (5).

21 8. Defendant Verizon Wireless is a domestic corporation, the principal purpose of  
22 doing business is with telecommunications, wherein its headquarters is located in New York and  
23 they have business locations all over the United States of America, including the State of Nevada.

24 9. Defendant National Enterprise Systems (“NES”) is a domestic corporation, the  
25 principal purposes of whose business is the collection of debts, operating a debt collection agency  
26 from its principal place of business in Solon, Ohio and regularly collects or attempts to collect  
27 debts owed or due or asserted to be owed or due by another, and is a “debt collector” as defined  
28 by 15 U.S.C. Section 1692a (6).



1           22. Plaintiff has resided in Las Vegas, Nevada since February 2007.

2           23. Plaintiff does not reside in Bloomfield Hills, Michigan.

3           24. Plaintiff does not work in Bloomfield Hills, Michigan.

4           25. Plaintiff's previous invoices were emailed to her and were never mailed to her at a  
5 Bloomfield Hills, Michigan address. **EXHIBIT 2.**

6           26. Correspondence dated June 13, 2008, was sent to Defendant NES informing them  
7 that the alleged debt was disputed by Plaintiff. **EXHIBIT 3.**

8           27. Plaintiff received correspondence from Defendant NES dated July 3, 2008,  
9 wherein they provided a copy of the documents provided by Defendant Verizon. **EXHIBIT 4.**

10          28. The Verizon Contract sent by NES references a new executed contract dated  
11 January 11, 2008, however this was not in the name of Monica Plaxton, the phone number  
12 associated with the account, 702-219-7395 was transferred to a new Verizon account and  
13 removed from Plaintiff's account. See Exhibit 3.

14          29. The Verizon Contract dated January 11, 2008, sent by NES was not executed by  
15 Plaintiff.

16          30. On July 17, 2008, Plaintiff informed Defendant NES that the documents in their  
17 July 3, 2008 correspondence were missing information in relation to payments made by Plaintiff  
18 and billings she never received. Plaintiff requested additional documentation from Defendant  
19 NES. **EXHIBIT 5.**

20          31. In the July 17, 2008 correspondence, Plaintiff also informed Defendant NES that  
21 she resides in Las Vegas, Nevada and never provided Verizon Wireless with a Bloomfield Hills,  
22 Michigan address to send her notices. See Exhibit 5.

23          32. Plaintiff's July 17, 2008 request for additional documentation supporting the  
24 alleged debt went unanswered by Defendant NES.

25          33. On October 8, 2008, Plaintiff informed Defendant NES that they had failed to  
26 provide supporting documentation of the alleged debt and that despite the fact that the debt was  
27 properly disputed, Defendants illegally reported invalid information to one or more of the three  
28 (3) major Credit Bureaus. **EXHIBIT 6.**

1           34.     The October 8, 2008 correspondence was received by Defendant NES on October  
2 11, 2008. **EXHIBIT 7.**

3           35.     Plaintiff received no further communications or correspondence from Defendant  
4 NES.

5           36.     Despite the knowledge that Plaintiff properly disputed the alleged debt, Defendant  
6 Verizon ignored this information and retained another collection agency, Defendant PMS to  
7 collect the same disputed debt from Plaintiff.

8           37.     Defendant Verizon harassed Plaintiff in violation of FDCPA § 1692 (d) by hiring a  
9 second collection company, after knowledge from Defendant NES that Plaintiff disputed her debt  
10 and informed Defendant NES that legal action would be taken due to the negative reporting  
11 actions on Plaintiff's credit.

12           38.     A statement dated December 7, 2008 was sent to Plaintiff at the same Bloomfield  
13 Hills, Michigan address, in attempt to collect the same alleged debt that had already been disputed  
14 by Plaintiff. **EXHIBIT 8.**

15           39.     Defendant PMS, at the direction of Defendant Verizon contacted Plaintiff at her  
16 residence on December 10, 2008, in violation of FDCPA 1692 (b) (6).

17           40.     During the December 10, 2008 phone call with Defendant PMS, Plaintiff informed  
18 their agent that the debt was already in dispute, that another collection agency was handling the  
19 matter and that she had retained an attorney to represent her and faxed a copy of all the  
20 documents and correspondence between Plaintiff and Defendant NES to Defendant PMS.  
21 **EXHIBIT 9.**

22           41.     In December 2008, Plaintiff verbally requested Defendant PMS to provide proof  
23 of the alleged debt.

24           42.     Correspondence dated December 23, 2008, was received from Defendant PMS  
25 stating that they would be forwarding documentation to Plaintiff shortly of the alleged debt.  
26 **EXHIBIT 10.**

27

28

1           43. Correspondence dated January 13, 2009, was sent to Defendant PMS informing  
2 them that despite Plaintiff's request for the supporting documentation no such documentation had  
3 been received to date. **EXHIBIT 11.**

4           44. Plaintiff also provided proof of the disputed debt and all correspondence again to  
5 Defendant PMS in her January 13, 2009 correspondence. See Exhibit 10.

6           45. In February 2009, Plaintiff received documents from Defendant PMS, which were  
7 the same documents Verizon Wireless provided to their first debt collection company, Defendant  
8 NES. No documentation was provided which supported the alleged debt owed by Plaintiff, nor  
9 was documentation provided showing that Plaintiff resided in Michigan or requested notices to be  
10 sent to her in Michigan.

11           46. On or about June 9, 2009, counsel for Plaintiff sent a demand to Defendants  
12 Verizon, NES and PMS for settlement of this matter and that Defendants repair Plaintiff's credit  
13 which was damaged as a result of Plaintiff's actions.

14           47. Despite the knowledge that Plaintiff properly disputed the alleged debt and the  
15 demand from Plaintiff's counsel, Defendant Verizon again ignored this information and retained a  
16 third collection agency, Defendant CBE to collect the same disputed debt from Plaintiff.

17           48. Defendant Verizon harassed Plaintiff in violation of FDCPA § 1692 (d) by hiring a  
18 third collection company, after knowledge from Defendants NES and PMS that Plaintiff disputed  
19 her debt and informed Defendants NES and PMS that legal action would be taken due to the  
20 negative reporting actions on Plaintiff's credit.

21           49. A statement dated June 11, 2009 was sent to Plaintiff at the same Bloomfield Hills,  
22 Michigan address, in attempt to collect the same alleged debt that had already been disputed by  
23 Plaintiff. **EXHIBIT 12.**

24           50. Defendant CBE, at the direction of Defendant Verizon contacted Plaintiff by  
25 telephone at her residence on June 22, 2009, in violation of FDCPA 1692 (e) (11).

26           51. During the June 22, 2009 phone call with Defendant CBE, Defendant CBE's  
27 representative identified herself as "Dana". Defendant CBE's representative stated she was  
28



1 calling to verify Plaintiff's social security number and address, but did not identify herself as a  
2 debt collector, in violation of FDCPA 1692 (e) (11).

3 52. Correspondence dated June 26, 2009, was sent to Defendant CBE informing them  
4 that the alleged debt was disputed by Plaintiff. **EXHIBIT 13.**

5 53. Starting in June 2008, Defendant Verizon Wireless began reporting the alleged  
6 debt to the Credit Reporting Agencies, wherein such alleged debt became a negative mark on  
7 Plaintiff's credit report. **EXHIBIT 14.**

8 54. Defendant Verizon has knowingly continued to provide negative reports to the  
9 three major Credit Bureaus, despite Plaintiff properly disputing the debt to two collection  
10 companies, Defendants NES and PMS.

11 55. Plaintiff's credit score continues to drop. It went from the 700's to currently 684.  
12 **EXHIBIT 15.**

13 56. Defendant Verizon is the only negative reporting creditor on Plaintiff's credit  
14 report. See Exhibit 13.

15 57. Plaintiff applied for an American Express Card in April 2009.

16 58. Plaintiff received correspondence dated April 17, 2009, from American Express  
17 denying her application for an American Express card, explaining that she had serious  
18 delinquency, amount past due on accounts, level of delinquency on accounts, time since  
19 delinquency is too recent or unknown. **EXHIBIT 16.**

20 59. Plaintiff had excellent credit, until Defendants Verizon Wireless, NES, PMS and  
21 CBE defamed her with false reporting and now her credit score continues to drop due to their  
22 illegal actions.

23 60. Defendants actions of reporting false information to the Credit Bureaus and failing  
24 to communicate that the debt was disputed is in violation of FDCPA § 1692 (e) (8).

25 61. The foregoing acts and omissions of Defendants were undertaken by it willfully,  
26 maliciously and intentionally, knowingly, and/or in gross or reckless disregard of the rights of  
27 Plaintiff.  
28





1           71. Defendants knew and/or should have known it was false, or in the alternative,  
2 should have waited to report any negative credit remarks until the debt was no longer disputed.

3           72. Defendants' published the statement negligently or in reckless disregard of the  
4 truth.

5           73. Plaintiff demanded a retraction and Defendants intentionally and/or negligently  
6 refused to retract the negative information to the Credit Bureau Agencies.

7           74. Defendants were direct and proximate result of damages to Plaintiff.

8           75. Plaintiff is entitled to recover exemplary damages, actual damages, and reasonable  
9 attorney's fees and costs.

10           WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

11                 1. Award of actual damages;

12                 2. Award exemplary and punitive damages as allowed and warranted by NRS 42 and  
13 as allowed under *Countrywide Home Loans v Titchener*, 192 P3d 243 (2008);

14                 3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k;

15                 4. Award of attorney's fees and costs incurred including attorney's fees as provided  
16 by statute and *Sand Valley Associates v Sky Ranch Estate Owners Association, et al*, 117 Nev  
17 948, 35 P3d (2001), for fees which were natural and proximate consequence of the injurious  
18 conduct;

19                 5. Special damages in an amount according to proof at trial;

20                 6. Cost of suit;

21                 7. Require Defendants to remove all credit reporting and repair Plaintiff's credit  
22 status with all Credit Bureau and Credit Reporting Services; and

23           ///

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1                   8. Grant such other and further relief as it deems just and proper.

2       Dated this 22<sup>nd</sup> day of July, 2009.

3  
4                                   **VOHWINKEL & ASSOCIATES**

5                                   /s/ Rory J. Vohwinkel

6                                   \_\_\_\_\_  
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13                                  Attorney for Plaintiff Monica L. Plaxton  
14                                  (aka Monica Garin)

15  
16                                   **DEMAND FOR JURY TRIAL**

17                   Plaintiff hereby demands a jury trial on all issues so triable as provided by Rule 38(b) of  
18       the Federal Rules of Civil Procedure.

19  
20                                   **VOHWINKEL & ASSOCIATES**

21                                   /s/ Rory J. Vohwinkel

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                                (aka Monica Garin)